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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/479, 038 06/07/95 DROHAN

W 1327.0440006

LARSEN EXAMINER

18M2/0604  
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ART UNIT  PAPER NUMBER

1808

DATE MAILED:

06/04/96

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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**Office Action Summary**

Application No. <b>08/479,038</b>	Applicant(s) <b>William N. Drohan et al.</b>
Examiner <b>Kristin K. Larson</b>	Group Art Unit <b>1808</b>

Responsive to communication(s) filed on Oct 26, 1995

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**

Claim(s) 1-23 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) \_\_\_\_\_ is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims 1-23 are subject to restriction or election requirement.

**Application Papers**

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

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--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

## **DETAILED ACTION**

Claims 1-23 are presented for examination.

The Preliminary Amendment filed October 5, 1995 and the Information Disclosure Statement filed October 26, 1995 have been received and entered.

### **Election/Restriction**

Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-11 and 21-23, drawn to a biocompatible, supplemented tissue sealant composition, classified in Class 424, subclass 94.64, for example.

Group II. Claims 12-20, drawn to an antibody delivery system, classified in Class 424, subclass 130.1+, for example.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case, the product claimed, i.e., the biocompatible, supplemented tissue sealant composition, can be used in a materially different process such as in an adhesive for sealing wounds.

The inventions are independent and distinct, each from the other. They have acquired a separate status in the art as a separate subject for inventive effect and require independent

searches (as indicated by the different classification). The search for each of the inventions is not co-extensive particularly with regard to the literature search. Further, a reference which would anticipate the invention of one group would not necessarily anticipate or even make obvious the other group.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

### **Conclusion**

No claim is allowed.

The references cited, but not relied upon are considered pertinent to applicant's disclosure.

Serial Number: 08/479,038  
Art Unit: 1808

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristin Larson, whose telephone number is 703-305-7811. The fax number for Art Unit 1808 is 703-305-7401. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1800 receptionist whose telephone number is 703-308-0196.

*KL*

Kristin K. Larson  
June 3, 1996

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